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The August 30, 2002 DNA legislative and media summary is listed below.

These reports are prepared by Tim Schellberg and Lisa Hurst of Smith Alling Lane (253) 627-1091, on behalf of Applied Biosystems. Text of legislation can be obtained by following the appropriate state-link at this site: <http://www.ncsl.org/public/sitesleg.htm>. Please see the appropriate media website for the newspaper articles.

## COMMENTS

A Massachusetts gubernatorial candidate is calling for an all felons DNA database, the Illinois Governor has just signed the law authorizing an all felons database, and California has enacted legislation to allow collection from death row inmates. A US Senator plans to introduce a bill to expand federal statutes regarding DNA databases, and an Oregon murder victim's father urges DNA sampling of violent felony arrestees.

Cold hits on the DNA databases identified suspects in Washington, Texas and California, and linked an unsolved crime in Arkansas to another unsolved crime in California. Backlogs at state and local crime labs made headlines in Fort Worth (Texas), Illinois, Indiana, Los Angeles (California), Michigan, New Mexico, South Carolina, and Ventura County (California).

A Michigan man was freed by post conviction DNA testing after serving 17 years, and a Missouri inmate is seeking new DNA tests on evidence previously tested. DNA testing exonerated a suspect after he spent several months in jail and is causing local prosecutors to review criminal investigation policies.

In international news...Scotland's lack of forensic DNA testing resources made headlines. An important South African murder case is testing DNA evidence, and a Malaysian incest case was proven through DNA. Both English and Australian laws on DNA sampling are under scrutiny from civil liberties groups.

## NEWS ARTICLES

### Forensic DNA

1. "Rape Victims Decry Backlog of DNA Tests and Demand Timely Analysis." Los Angeles Times, August 28, 2002.  
In Los Angeles, California, rape survivors rallied at Police Department headquarters, calling on law enforcement agencies to devote more money to analyzing biological material for DNA and decried the increasing backlog of untested rape kits in police evidence rooms. "My rape kit sat on the shelf gathering dust for four years" before it was tested, said Karen Pomer, whose rapist was caught after he assaulted other women in the mid-1990s.
2. "Police say Arkansas case similar to California." The Associated Press State & Local Wire, August 28, 2002.  
Police say DNA evidence linked the killing of a New Jersey woman at an Arkansas rest area in 2000 to the brutal slaying of a California woman four months later. The forensic match was made after the Los Angeles County Sheriff's Department crime lab compared its genetic samples not in the national database with the DNA sample collected at the Arkansas crime scene. Investigators now also suspect that several other unsolved murders in the area may have been committed by the same perpetrator and are reviewing the evidence for DNA samples.
3. "Prisoner charged in 1979 killing." The Associated Press State & Local Wire, August 28, 2002.  
In Washington, a man already serving a life prison term has been charged with first-degree murder in the 1979 killing of a waitress he knew from an art class. Police investigating the murder said the case might be one of the state's oldest to be resolved using DNA evidence. The Washington State Patrol Crime Lab examined swabs

taken from the victim's body and obtained a DNA profile that was tested for possible matches in the state's DNA felon database. Officials said the search yielded a match with only one person.

4. "State looks at its DNA handling." The Associated Press State & Local Wire, August 27, 2002.  
In Michigan, the reversal of a man's conviction for rape and murder based on new DNA evidence has led some experts to call for more funding and personnel for DNA analysis as scores of convicted criminals challenge their verdicts. A Michigan judge recently overturned the conviction of a man who had been imprisoned 17 years after being convicted of raping and murdering a teenage girl in the 1980s. In June, it was reported that nearly 40,000 DNA samples collected from felons have flooded the state police crime lab this year - about twice as many as expected - and forensic scientists had processed only a fraction of them. Critics say state legislators shouldn't have passed the law requiring all felons to submit DNA samples without approving money to go with it. The state law that took effect Jan. 1 ordering everyone convicted of a felony or a sex-related misdemeanor to give authorities a sample of their DNA has not been fully carried out. Local law enforcement agencies and the Michigan State Police crime lab said there wasn't enough time to implement the law. State police said there could be as many as 50,000 samples this year alone.
5. "Clamp on abuses of DNA tests." Courier Mail, August 27, 2002.  
In Australia, two people have reportedly come forward with claims Queensland police had used random breath test equipment to illegally collect DNA samples. A Queensland police spokeswoman said there was no policy to use random breath tests to collect DNA samples. However, the Health Ethics Committee and the Law Reform Commission plans to recommend a range of safeguards to prevent the misuse of genetic information. Their discussion paper is expected to suggest guidelines on the use of genetic testing and information by employers, the use of DNA testing to determine parentage and aboriginality, and the use of DNA profiling by law enforcement authorities.
6. "DNA evidence leads to release of man convicted 17 years ago." Detroit Free Press, August 27, 2002.  
In Michigan, a Detroit man convicted 17 years ago of raping and killing a teenage schoolgirl has been freed after DNA tests proved his innocence. The man was in a mental hospital and on medication when police say he confessed to raping and murdering the girl in 1984. The man's freedom came after DNA analysis, which did not exist in 1984, proved he did not commit the crime. The man becomes the 110th person in the country to be freed by efforts of the Innocence Project.
7. "Man gets 19 years for raping daughter." New Strait Times (Malaysia), August 27, 2002.  
In Malaysia, a 50-year-old man was sentenced to 19 years' jail for raping his only child. The man pleaded guilty to committing the offence between January last year and March. The man said he could not help himself as the 25-year-old daughter had been sleeping with him since she was little. The victim was raped when her mother was not at home and it continued until they were caught by the Kuala Lumpur Religious Department enforcement officers. The girl gave birth to a baby boy recently and DNA test showed the accused was the child's biological father.
8. "DNA cases prompt system questions." San Jose Mercury News, August 27, 2002.  
In Santa Clara, California, a recent spate of suspect exonerations through DNA testing has prompted a review of the system. Santa Clara County prosecutors dropped the local cases as soon as DNA evidence cleared their suspects. "It's good because we're not going to be prosecuting an innocent person, but it's bad because we lost time investigating." A county district attorney said that at least part of the problem with the local cases is a backlog at the crime lab. The crime lab, which is run by the district attorney's office, is overwhelmed with requests by police from several counties to process everything from genetic evidence to fingerprints. "We're going to have to do these tests a lot faster."
9. "Dismissal of charges spurs new S.J. policy." San Jose Mercury News, August 27, 2002.  
High-level San Jose police supervisors will review the investigations of all major criminal cases -- a new, so far unwritten policy that comes as a reaction to last week's dismissal of charges against a man when long-delayed DNA results cleared him of raping his 71-year-old mother. The man was charged with sexual assault and attempted murder charges and jailed on May 1. He was finally released in late August. The Santa Clara County District Attorney's office is considering procedural changes, such including crime scene technicians and

forensic laboratory personnel in the discussions that lead to the decision to charge or not.

10. "DNA database a vital crime-solving tool." Chicago Daily Herald, August 26, 2002.  
Editorial in support of the new Illinois law requiring DNA from all convicted felons. Civil liberties issues have been adequately addressed, but funding issues have not. "The more difficult problem is money. Start-up costs total \$6 million. Annual costs will run to about \$1.7 million thereafter. Legislators have not appropriated that money but have imposed a \$200 fee on each convicted felon to help cover the expense. Sponsors and proponents are banking on federal grants to deliver the rest of the money needed to get the system up and running. The absence of state funding is unfortunate but understandable in light of the state's deep and ongoing budget problems. We trust state officials will be aggressive in their pursuit of federal assistance - the DNA database is a crime-fighting tool that should be put to use as soon as possible."
11. "Fort Worth police to reopen crime lab's chemistry section." Fort Worth Star-Telegram, August 26, 2002.  
Improvements are already under way in the Fort Worth Police Department's crime lab, as officials await word on whether the city will provide money for additional staff and renovations. Officials have recently made new hires, including a crime lab director and DNA forensic scientist, but the lab's forensic manager announced two weeks ago that he plans to resign. The department has asked the city for \$700,000 for renovations, including physical changes to the lab to make better use of current space in preparation for additional staff, equipment and property room storage. Another \$183,000 is being sought to pay for three new scientist positions, one for the lab's ballistics section and two for the DNA unit.
12. "Man Convicted Through DNA Wants New Test." St. Louis Post-Dispatch, August 26, 2002.  
A Missouri death-row inmate is seeking to overturn his conviction through DNA testing. But, the twist in this case is that DNA evidence already was used in the trial that sent him to prison. The man was convicted 10 years ago in a 1990 rape and murder. A witness placed him near the murder scene, and prosecutors presented DNA evidence at the trial. However, the man's attorney says that evidence was flawed. He says prosecutors knew it was flawed at trial, but failed to notify his the defense until the trial was under way. By then the man's attorney had already built a case based on impeaching the state's evidence, and it was too late to request a second test.
13. "Birmingham: End restrictions on child rape prosecutions." The Associated Press State & Local Wire, August 25, 2002.  
In Massachusetts, a Democratic gubernatorial candidate said that prosecutors should be allowed to proceed in child rape cases no matter how old the allegations. Another Democratic candidate for Governor is calling for DNA fingerprinting for all felony offenders.
14. "Call For DNA Tests To Stop Criminals In Their Tracks." Scotland On Sunday, August 25, 2002.  
A Scottish paper reports, "Career criminals are getting away with hundreds of offences because Scotland's police forces lack the resources to carry out detailed DNA searches at crime scenes, government inspectors have claimed. They claim officers would catch persistent criminals weeks earlier, in the middle of their crime sprees, if more DNA searches were carried out." Chief constables are being urged to devote more resources to the police forensics service and to encourage officers to be more "robust" in using their powers to take DNA samples. Better staffing of forensics laboratories would also allow crimes to be solved faster. The claims are made in a report by HM's Inspectors of Constabulary for the Scottish Executive.
15. "MP Backs Police Over DNA Sample Databases." Evening News (Edinburgh), August 24, 2002.  
In England, a veteran Member of Parliament recently wrote in the New Scientist magazine that authorities should be allowed to keep hold of DNA samples of the innocent. British law allows all legally collected samples to be retain on the database, but civil libertarians have been very critical of the law. Earlier this year the Human Genetics Commission, a Government advisory body on developments in human genetics, raised concerns over the misuse of genetic information. The commission recommended outlawing the "theft" of DNA but avoided giving advice on whether the police should be allowed to keep DNA of suspects who turn out to be innocent. As a compromise, it proposed an independent body to monitor and oversee the operation of the police DNA database.
16. "Still no DNA samples from death row." Sacramento Bee, August 24, 2002.

Thousands of DNA samples from California's most dangerous and violent prison inmates are in a state databank used to solve crimes, but biological profiles from the worst - 616 death row inmates - have yet to be collected. Though a legal challenge to collecting blood and saliva from death row inmates is virtually dead, their samples are not likely to be collected anytime soon, according to the Corrections Department. Instead, the Department is focusing its collection efforts on those inmates who are about to be released from prison.

17. "DNA Evidence in Rape Cases Was Delayed." Los Angeles Times, August 23, 2002.  
In California, while an accused serial rapist remained free and allegedly raped another woman in July, DNA evidence linking him to two earlier sexual assaults sat unattended in a Ventura County crime lab freezer. Short-staffed and burdened by the demands of several high-profile criminal cases last spring, technicians took nearly six months to alert detectives that stored DNA from the rapes in January 2002 and August 1998 pointed to a single suspect. Three weeks after the DNA similarities were discovered, crime lab technicians informed investigators that DNA samples taken from a blood test the suspect gave after a drunk-driving arrest matched the earlier swabs.
18. "STATE SUPREME COURT: Ruling puts DNA method to test." Saint Paul Pioneer Press, August 23, 2002.  
The Minnesota Supreme Court has ruled that a Washington County trial court erred in not conducting the first prong of the two-part Frye-Mack hearing regarding the admissibility of DNA evidence and ordered the lower court to conduct the hearing. Other issues raised in the appeal will not be decided until after that hearing. The longer it takes the Supreme Court to rule on the DNA-test issue, the more cases may hinge on the outcome. In May, the Hennepin County Attorney's Office had 16 DNA-dependent cases pending; that number may now be up to 34. Potentially at stake are the results of more than 1,485 cases statewide in which the new DNA testing method has produced significant evidence, including matches, in the three years since it went into use, Hennepin County officials said.
19. "Hub crime lab gets national recognition." The Boston Herald, August 22, 2002.  
The Boston, Massachusetts Crime Laboratory Unit has received accreditation from the American Society of Crime Lab Directors. The lab is currently endeavoring to shed new light on some 2,000 no-suspect sexual assault cases dating back to 1984, creating and inputting hundreds of DNA profiles into a national database that have already cross-linked potential suspects in assault cases to unrelated crimes like carjacking.
20. "Rape kits going untested." The Greenville News, August 22, 2002.  
DNA evidence from hundreds of rape cases are sitting in evidence rooms across South Carolina because the state doesn't have enough technicians to test the evidence. The lab does not know how many rape kits are still waiting to be analyzed, but "It could be in the hundreds." The lab receives DNA from about 900 kits a year. About half of those submitted were sent back without being analyzed. A federal grant would allow SLED to continue to pay a private lab to both analyze the hundreds of cases in which there is no suspect and enter the DNA profiles of the more than 30,000 convicted violent offenders. Greenville Police have 115 cases shelved in nonrefrigerated evidence because they've either been analyzed or are at least a year old. Twenty-five kits are refrigerated, and four are waiting to be sent to SLED. Greenville County Sheriff's Office has 162 cases shelved because they've either been analyzed or at least a year old. Sixty-four kits are refrigerated and another six are waiting to be sent to SLED.
21. "Attempt To Unlock Evidence From DNA." The Seattle Post-Intelligencer, August 21, 2002.  
Crime labs and large police agencies nationwide soon will be surveyed by a Tacoma law firm that is tallying the true backlog of DNA evidence that could, if tested, help convict the guilty or free the innocent. The federal government is providing significant financial support to help crime labs process DNA samples taken in rape and homicide investigations. The resulting DNA profiles could then be entered into a database to be used by police to identify suspects in their cases. Because no one knows how much of the evidence exists, the Justice Department this month provided a grant to the Tacoma law firm Smith Alling Lane to conduct a nationwide survey of crime labs and law enforcement agencies.
22. "South Africa; Marike: DNA Test Starts." Africa News, August 21, 2002.  
In South Africa, an independent analysis of DNA evidence gathered during the investigation of the murder of Marike de Klerk was due to start at the University of Stellenbosch. The judge in the case ordered DNA samples taken during the course of the investigation to be handed over to an independent forensic analyst for the

defense. The Foundation for Human Rights, funded by the European Union, recently decided to donate R30 000 to defense legal team to finance the appointment of their own DNA expert.

23. "Grant will allow for faster testing." The Associated Press State & Local Wire, August 21, 2002.  
A \$550,000 federal grant will allow the state of New Mexico to speed up DNA tests on evidence critical to solving crimes. The Department of Justice has awarded the grant to the state's DNA analysis programs to reduce a backlog of cases ranging from sexual assaults to burglaries. The Albuquerque Police Department's backlog of dozens of cases should be processed within the next year because of the grant.
24. "DNA evidence has come a long way since O.J. Simpson trial." The Associated Press State & Local Wire, August 21, 2002.  
Eight years after the O.J. Simpson trial thrust DNA evidence into the public consciousness, its value as a prosecution tool was reinforced by the conviction of David Westerfield in the murder of 7-year-old Danielle van Dam. While the Simpson case was undermined by sloppy DNA collection and storage, the Westerfield trial benefited from positive identifications of the little girl's blood on Westerfield's jacket and her hair in his home and recreational vehicle. "In the O.J. case, the police were on trial," said Levenson. "The police work was sloppy. They didn't realize that DNA evidence could be attacked. They didn't know it mattered how the DNA was handled and maintained. O.J. provided a primer for police on how not to handle DNA evidence."
25. "DNA nets break in '83 KFC killings." The Dallas Morning News, August 21, 2002.  
In Texas, three incarcerated career criminals are now the major suspects in the kidnap-slayings of five people from a Kentucky Fried Chicken restaurant 19 years ago. DNA testing of blood found at the crime scene and a statement from one of the suspects to other prison inmates has reignited the long-stalled investigation of the 1983 slayings, which is among the state's most notorious unsolved crimes. Comparisons of blood samples recovered from the crime scene with the state's DNA database led authorities to a man serving a lengthy sentence for burglary. Further comparisons of bloodstains found on victims' clothing with the DNA database led authorities to place two other prison inmates at the scene of the crime -- both serving lengthy sentences for convictions in robberies or burglaries.
26. "Helms to introduce bill on DNA database." The News and Observer (Raleigh, NC), August 21, 2002.  
U.S. Sen. Jesse Helms (R-NC) plans to introduce legislation in September allowing more comprehensive use of a national DNA database. The move was prompted by a recent discovery that technicalities in existing law prevented the DNA of confessed serial killer Richard Marc Evonitz from being registered in the National DNA Index System.
27. "DNA links parolee to old rape case." The Orange County Register, August 21, 2002.  
In California, an old rape case in Fountain Valley has been linked to a fugitive parolee through the use of DNA, marking the 100th time the state has tied a suspect's blood and saliva to an unsolved crime. The man was sentenced to four years in prison in December 1995 for robbery. He bounced in and out of prison for violating his parole, ultimately serving five years and four months for the robbery.
28. "DNA Database Would Help Police." The Oregonian, August 20, 2002.  
Letter to the Editor from the father of a murder victim. Father suggests that requiring DNA from arrestees of violent crimes could have helped to save his daughter's life.
29. "Reducing backlog is a crime lab must." The Indianapolis Star, August 16, 2002.  
Editorial "Our position: State Police are taking welcome steps to handle DNA cases more quickly...The faster the Indiana State Police laboratory runs, the farther it falls behind. The reason is simple: Advancements in forensic science have created an unprecedented backlog of crime evidence cases...As of March 1, a total of 729 cases awaited DNA testing of blood and other bodily substances by the state crime lab. Medler, who became lab commander after the retirement of Maj. Robert Conley, hopes to reduce the backlog to no more than 45 days. That's a reachable goal and a reasonable delay to impose on prosecutors and victims. If the aim of justice is to give every man his due, justice has been overdue for too long."

### Genetic Privacy

30. "Society Seeks Debate On Gene Info Use." The Yomiuri Shinbun / Daily Yomiuri, August 27, 2002.  
The Japan Society of Human Genetics will lobby the government to establish a panel to review the use of genetic information on employment and insurance contracts. The society's decision to seek government action on the issue follows the discovery that a number of newborn babies diagnosed with genetic diseases by government medical checks have been refused life insurance, including postal life insurance.
31. "Who owns our DNA." Windsor Star, August 24, 2002.  
The question of benefit sharing -- everything from paying people for their donated **DNA** samples to financial rewards from royalties and patents -- has emerged as the most contentious issue to be resolved. A broader public discussion is required on the question of benefit sharing in human genomics research.

### Paternity

32. "Court victory for DNA 'dad'." The Daily Telegraph (Sydney), August 23, 2002.  
In Australia, a former policeman has won the right to stop paying child support to his ex-wife after DNA tests proved he is not the father of her son. But he will have to sue to get back the \$28,752 he has paid in child support over 15 years.